

**HOUSE . . . . . No. 496**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**John W. Scibak**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act establishing a bill of rights for children who are deaf or hard of hearing.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
John W. Scibak	2nd Hampshire
Christine E. Canavan	10th Plymouth
Steven J. D'Amico	4th Bristol
Jennifer M. Callahan	18th Worcester
Bruce E. Tarr	First Essex and Middlesex
Brian A. Joyce	Norfolk, Bristol and Plymouth
Louis L. Kafka	8th Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 559 OF.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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AN ACT ESTABLISHING A BILL OF RIGHTS FOR CHILDREN WHO ARE DEAF OR HARD OF HEARING..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Chapter 6 of the General Laws, as appearing in the 2004 Official Edition, is hereby  
2 amended by inserting after section 198 the following section:—  
3 Section 198A. The commission shall certify the sign language or oral/aural communication proficiency of  
4 professionals and para-professionals who are providing direct or related services pursuant to an  
5 individualized education plan to deaf and hard of hearing pupils in the school. For the purposes of this  
6 section, such direct and indirect service providers shall include teachers of the deaf, speech therapists,  
7 counselors, interpreters, teaching associates and others as appropriate.  
8 The department of education shall acknowledge the commission certification awards or acceptance by the  
9 commission of other certifying entities as meeting communication proficiency standards within its  
10 certification process for said educational personnel.  
11 No person shall be employed by a school district in any of the positions enumerated herein who has not  
12 been certified, but the department may issue a temporary certification effective for up to three years-to an  
13 applicant seeking certification under the provisions of this section, provided that the applicant is pursuing  
14 an educational program to attain competence in communication.

15           SECTION 2. Section 1B of chapter 69 of the General Laws, as appearing in the 2004 Official Edition, is  
16 hereby amended by inserting after the 22nd paragraph the following paragraph:—  
17 The board shall provide information to schools, through referral by the commission for the deaf and hard  
18 of hearing children's services specialists or other appropriate persons concerning educational, medical,  
19 cultural and linguistic issues of deafness and hearing loss to meet the individual educational needs of deaf  
20 and hard of hearing children.

21 SECTION 3. Section 38G of chapter 71 of the General Laws, as appearing in the 2004 Official Edition, is  
22 hereby amended by inserting after the 20th paragraph the following two paragraphs:—  
23 Competence in sign language or oral/aural communication shall be a requirement for initial certification  
24 as a teacher of students who are deaf or hard of hearing. Such competence shall be verified through a  
25 communication proficiency assessment certification process determined by the commission for the deaf  
26 and hard of hearing.  
27 Competence in interpreting shall be a requirement for initial certification by the department for  
28 educational interpreters. Such competence shall be determined by the commission for the deaf and hard of  
29 hearing.

30 SECTION 4. Chapter 71B of the General Laws, as appearing in the 2004 Official Edition, is hereby  
31 amended by inserting after section 3A the following section:—  
32 Section 3B. As used in this section, the following terms shall have the following meanings:  
33 “American sign language”, the visual/gestural language used by deaf people in the United States and  
34 Canada, with semantic, syntactic, morphological, and phonological rules which are distinct from English;  
35 “Deaf student”, an individual who has a severe or complete absence of auditory sensitivity which  
36 adversely affects educational performance and which is so severe that the student is impaired in  
37 processing linguistic information through hearing, with or without amplification;  
38 “English sign systems”, sign systems developed for educational purposes, which use manual signs in  
39 English word order; sometimes with added affixes which are not present in American sign language;  
40 “Hard of hearing student”, an individual who has some absence of auditory sensitivity with residual  
41 hearing, whether permanent or fluctuating, which adversely affects a child’s educational performance but  
42 which is not included under the definition of “deaf student” in this section;  
43 “Individualized education plan (IEP)”, a written educational plan developed for a student eligible for  
44 special education services pursuant to the Code of Massachusetts regulations and the federal Individual  
45 with Disabilities Education Act, 20 U.S.C. § 1400 et seq;  
46 “Primary communication mode, style, and language”, the communication mode, style, and language  
47 which is preferred by and most effective for a particular student, as determined by appropriate language  
48 assessment undertaken by individuals proficient in the communication mode, style, or languages being  
49 assessed. Communication mode may include one or more of the following systems or methods of  
50 communication applicable to deaf or hard of hearing children:  
51 (a) American Sign Language;  
52 (b) English-based manual or sign systems; or  
53 (c) Oral, aural, or speech-based training.  
54 Children who are deaf or hard of hearing are entitled to appropriate screening and assessment of hearing  
55 and vision capabilities and language and communication needs at the earliest possible age and to the  
56 continuation of intermittent screening services throughout their educational experience.  
57 Children who are deaf or hard of hearing are entitled to early intervention to provide for acquisition of a  
58 solid language base(s) developed at the earliest possible age.  
59 Children who are deaf or hard of hearing are entitled to have an education in which their  
60 parents’/guardians’ full informed participation in determining the extent, content, and purpose of all their  
61 educational planning and programs.  
62 Children who are deaf and hard of hearing are entitled to have an education in which teachers of the deaf  
63 and hard of hearing, counselors, psychologists, speech therapists, diagnostic personnel, administrators,

64 and other special education personnel understand the unique nature of deafness and are specifically  
65 trained to work with deaf and hard of hearing students.  
66 Children who are deaf or hard of hearing are entitled to qualified teachers, teacher aides, interpreters of  
67 the deaf and hard of hearing who have a background in deafness, have demonstrated proficiency in the  
68 preferred language mode of those children and are qualified based on standards as set forth by the  
69 Massachusetts commission for the deaf and hard of hearing.  
70 Children who are deaf or hard of hearing are entitled to contact with and to be exposed to adult role  
71 models who are deaf or hard of hearing in their educational programs.  
72 Children who are deaf or hard of hearing are entitled to receive an education with a sufficient number of  
73 language mode peers with whom they can communicate directly and who are of the same, or  
74 approximately the same, age and ability level.  
75 Deaf and hard of hearing children are entitled to have programs in which they have direct and appropriate  
76 access to all components of programs services of the educational process, including, but not limited to,  
77 extracurricular social and athletic activities.  
78 Children who are deaf or hard of hearing are entitled to placement best suited to their individual needs,  
79 including, but not limited to age, hearing loss, academic level, mode(s) of communications, style of  
80 learning, motivational levels and family support.  
81 Children who are deaf or hard of hearing are entitled to benefit from the development and implementation  
82 of state and regional programs for children with low incidence disabilities.  
83 Children who are deaf or hard of hearing are entitled to up-to-date technological devices and equipment,  
84 acoustic enhancements such as carpeting in the classroom, assistive listening devices used alone or in  
85 conjunction with a hearing aid such as audio loop and FM systems, visual technological support to the  
86 classroom and school building.  
87 Children who are deaf or hard of hearing are entitled to have the public fully informed concerning  
88 medical, cultural, and linguistic issues of deafness and hearing loss.  
89 Each deaf or hard of hearing student shall have a determination of the least restrictive environment that  
90 takes into consideration these legislative findings and declarations.

91 SECTION 5. A person who is certified as a teacher of students who are deaf or hard of hearing shall  
92 demonstrate continued competency in sign language or oral/aural communication for instruction as a  
93 condition of renewal of certification in accordance with the provisions of section 38G of chapter 71 of the  
94 General Laws, as appearing in the 2004 Official Edition.

95 SECTION 6. The assessment for communication proficiency in sign language and oral/aural  
96 communication accepted by the department of education for certification of teachers of deaf or hard of  
97 hearing students shall be determined or developed by the commission for the deaf and hard of hearing.  
98 The assessment for interpreting proficiency in sign language or oral/aural communication accepted by the  
99 department of education for certification of educational interpreters of deaf or hard of hearing students  
100 shall be determined or developed by the commission for the deaf and hard of hearing.

101 SECTION 7. There is hereby established an advisory council on the education of children who are deaf or  
102 hard of hearing consisting of 14 members to be appointed by the board of education in consultation with  
103 the commission for the deaf and hard of hearing, one of whom shall have professional experience in using  
104 assistive technology; two of whom shall be educators of deaf or hard of hearing students, one of whom

105 shall be a regular and effective user of American Sign language and one of whom shall be a regular and  
106 effective user of oral/aural or speech based English; two parents of deaf or hard of hearing students, one  
107 of whom is a regular and effective user of American sign language and one of whom is a regular and  
108 effective user of oral/aural or speech based English; two representatives of the deaf and hard of hearing  
109 community, one of whom is a user of American sign language and one of whom is a user of oral/aural or  
110 speech based English; two administrators of college or university teacher training programs, one of whom  
111 shall use American Sign language and one of whom shall use oral/aural or speech based English; an  
112 administrator of a college or university program in interpreter training; two administrators of programs or  
113 schools for deaf or hard of hearing students, one of whom shall be an administrator of a program which  
114 uses American Sign language, and one of whom shall be the administrator of a program which uses  
115 oral/aural or speech based English; one shall be a representative of the Massachusetts Registry of  
116 Interpreters for the deaf; and one shall be a representative of the commission for the deaf and hard of  
117 hearing.

118 The council shall file a report with the clerk of the house of representatives who shall forward the same to  
119 the joint committee on education on the first Wednesday in July, of each year commencing with July 5,  
120 2000. Said report shall include, but not be limited to the following: the number of teachers certified  
121 pursuant to section 38G of chapter 71 of the General Laws, as appearing in the 2004 Official Edition, the  
122 number of deaf and hard of hearing students accepting such instructions; the percentage and type of  
123 assistive technology and other educational materials available, and such recommendations as it may make  
124 to improve the amount and variety of such materials; and findings and recommendations concerning the  
125 employment conditions of teachers of students who are deaf or hard of hearing.